United States Court of Appeals
for the
District of Columbia Circuit

TRANSCRIPT OF RECORD

[illegible]

TRANSCRIPT OF RECORD.

Court of Appeals of the District of Columbia.

APRIL TERM, 19

No. 3264. 568

CHARLES F. BOSS, Sr., APPELLANT,

vs.

HARLAN W. HAGAN AND FRANCES L. HAGAN.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED APRIL 8, 1919.

PRINTED MAY 22, 1919.

Court of Appeals of the District of Columbia.

APRIL TERM, 1919.

No. 3264.

CHARLES F. BOSS, Sr., APPELLANT,

vs.

HARLAN W. HAGAN AND FRANCES L. HAGAN,
APPELLEES.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

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Court of Appeals of the District of Columbia.

No. 3264.

Chas. F. Boss, Sr., Appellant,

vs.

Harlan W. Hagan et al.

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a Supreme Court of the District of Columbia.

At Law, No. 61899.

Harlan W. Hagan and Frances L. Hagan, Plaintiffs,

vs.

Charles F. Boss, Sr., Defendant.

United States of America,
District of Columbia, ss:

Be it remembered, That in the Supreme Court of the District of Columbia, at the City of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:

1 *Complaint and Summons.*

In the Municipal Court of the District of Columbia.

Filed November 30, 1918.

In the Supreme Court of the District of Columbia.

At Law. No. 61899.

Harlan W. Hagan and Frances L. Hagan, Plaintiffs,

vs.

Charles F. Boss, Sr., Defendant.

State of Maryland,
County of Frederick, to wit:

Your Complainants, Harlan W. Hagan and Frances L. Hagan being first duly sworn according to law, states that they are entitled

to the possession of the premises No. 620 14th Street Northeast, located in the District of Columbia, and that the same is unlawfully detained from them and held without right by the defendant Charles A. Boss, Sr., to whom the complainants' vendor had heretofore rented the said premises as a monthly tenant and whose tenancy and estate has been determined by the service of a due notice to quit said premises having been purchased by the complainants as joint tenants, for their home and the home of their family, the said Harlan W. Hagan being a war worker and said premises are necessary for complainants to occupy. Complainants therefore pray that a Summons be issued, commanding the defendant to appear and show cause why judgment should not be given against him for the restitution
2 of the possession of said premises, and costs of this suit.

HARLAN W. HAGAN.
FRANCES L. HAGAN.

Subscribed and sworn to before me this 2nd day of November A. D. 1918.

[SEAL.] R. LEROY McCARDELL,
Notary Public for Frederick County, Maryland.

Summons.

* * * * * * *

The President of the United States to the Defendant, Charles F. Boss, Sr., Greeting:

You are hereby summoned to appear in this Court on the 15 day of November A. D. 1918, at 10 o'clock A. M., to answer the plaintiff's complaint and show cause why judgment should not be given against you for the restitution of the possession of the premises described in the complaint under oath filed herein by said plaintiffs, Harlan W. Hagan and Frances L. Hagan and costs of this suit, and in case of your failure so to appear and answer, the suit will be proceeded with as in case of default.

Witness the Honorable Judges of said Court this 4 day of November A. D. 1918.

BLANCHE NEFF, [SEAL.]
Clerk.
By R. H. ROLLINS,
Assistant Clerk.

3 *Marshal's Return.*

11/4/18.

Summoned as within directed.

MAURICE SPLAIN,
U. S. Marshal.
By BENNETT,
Deputy Marshal.

[Endorsed.]

November 19, 1918.

Judgment for plaintiff for possession of the within described premises after trial with costs.

R. H. TERRELL,
Judge.

Special Appearance and Motion to Dismiss Complaint.

* * * * * * *

Comes now the defendant, Charles F. Boss, Sr., by his attorney, and appears specially herein, for the purpose of this motion only, and for no other purpose, and moves the Court to dismiss the complaint for failure by plaintiffs to give security for costs, as required by Sec. 11 of the Code of Law for the District of Columbia.

CHAS. H. MERILLAT,
Attorney for Defendant.

4 *Certificate of Municipal Court on Appeal.*

* * * * * * *

Date. 1918		Proceedings.
		Plaintiffs' attorney, C. Linkins.
		Defendant's attorneys, C. H. Merillat and P. H. Marshall.
Nov.	4th	Sworn complaint filed.
“	“	Summons and copy issued returnable Nov. 15, 10 A. M.
“	“	Summoned as within directed.
“	15th	Continued by defendant to Nov. 18, 10 A. M.
“	18th	Motion to dismiss filed by defendant.
“	19th	Judgment for plaintiffs for possession of the within described premises, after trial, and costs.
“	26th	Appeal, notice of, filed. Set for Nov. 26, 10 A. M.
“	“	Appeal, undertaking on, with Fidelity & Deposit Co. of Md., surety, approved and filed.
“	29th	Appeal, record on and papers filed with Clerk of Supreme Court, D. C., and notice sent to defendant's attorneys.

This is to certify, that the foregoing is a true copy of the Docket Entries and of all the proceedings had before the said Court in the above cause, and that the annexed documents are all the original papers filed in said cause.

Witness the Honorable Judges of said Court this 29th day of November A. D. 1918.

BLANCHE NEFF,
Clerk.

Costs paid by Plaintiff, $2,85.
Costs paid by Defendant, $1.25.

5 *Affidavit of Plaintiffs under Law Rule* 19.

Filed December 10, 1918.

* * * * * * *

STATE OF MARYLAND,
City of Frederick, County of Frederick, ss:

Harlan W. Hagan and Frances L. Hagan, after being duly sworn according to law, upon oath, do depose and say, that they are citizens of the United States and residents of the District of Columbia, and are the plaintiffs, appellees, in the above entitled cause of action; that Charles F. Boss, Sr., is the defendant, appellant therein.

That the plaintiffs, appellees, are entitled to possession of premises known as Lot No. 121 in Square No. 1028, in the City of Washington, District of Columbia, being improved by premises known as No. 620 Fourteenth Street, Northeast, which said premises the defendant, appellant, prior to the purchase of the said land and premises by the plaintiffs, appellees, had rented from plaintiffs', appellees', grantor Charles A. Peters as a monthly tenant, the contract in writing for said letting of said premises from the said Charles A. Peters to the defendant, appellant, being a part of the record on appeal in this court and being made part of this affidavit as though the same were fully herein set forth.

That the defendant, appellant, for several months prior to the purchase of said land and premises by plaintiffs, appellees, had paid the said Charles A. Peters Two Dollars ($2.00)
6 additional rent than called for by said agreement of letting.

That on the 25th day of September, A. D. 1918, the plaintiff's. appellees', grantor Charles A. Peters bona fide sold and conveyed said land and premises unto the plaintiffs, appellees, by deed in fee simple, dated the said 25th day of September, A. D. 1918, which said deed was recorded the 25th day of September, A. D. 1918, in Liber 4120 in Folio 76, one of the Land Records for the District of Columbia, by which said deed your plaintiffs, appellees took a fee simple title thereto as joint tenants; that thereafter, on the 25th day of September, 1918, your plaintiffs, appellees, conveyed said land and premises unto Ernest L. Schmidt and George M. Emmerich, trustees of the American Building Association to secure said building association for an advance on twenty shares of stock in said association, amounting to the sum of Four Thousand ($4,000.00) Dollars, said deed of trust being recorded in Liber 4120, Folio 77 of the Land Records of the District of Columbia; that your plaintiffs, appellees, paid unto their said grantor, the said Charles A. Peters, Five Thousand ($5,000.00) Dollars for said land and premises, paying One Thousand ($1,000.00) Dollars thereof in cash to their said grantor and borrowing Four Thousand

($4,000.00) Dollars from said building association, secured by said deed of trust and causing the said Four Thousand ($4,000.00) Dollars so borrowed to be paid to their said grantor. That thereafter, to wit, on the 28th day of September, 1918, your plaintiffs, appellees, caused to be served and had served a due and legal notice to quit upon the said defendant, appellant, personally upon said premises, which said due and legal notice to quit is made a
7 part of the record on this appeal and is made a part of this affidavit as though the same were fully and in extenso set forth herein.

That the plaintiffs, appellees, purchased said land and premises for their home and the home of their family of three children; their children's ages being, respectively, one year, four years and 7 years; that said land and premises was purchased by your plaintiffs, appellees, as joint tenants, only after an endeavor had been made to secure by renting or buying other suitable premises in the District of Columbia, which efforts on their part were unsuccessful. That the plaintiff appellee, Harlan W. Hagan is permanently in the employ of the United States Government, doing war work at the Navy Yard, Washington, D. C., and has been so employed since, to wit, the 10th day of December, A. D. 1917; that owing to the fact that the defendant, appellant, will not quit said land and premises, it has been necessary for the plaintiff, appellee, Harlan W. Hagan to furnish the said plaintiff, appellee, Frances L. Hagan and their three children, a temporary abode in Frederick City, Md., while he is occupying a small room in the City of Washington, District of Columbia.

That your plaintiffs, appellees, have never made demand upon the said defendant, appellant, for rent, nor have they received nor have they accepted any rent from the said defendant, appellant, though on this appeal there will be due these plaintiffs, appellees, such just sum of money, to wit, the sum of $29.00 per month from the 19th day of November, A. D. 1918 to the time possession of said premises is given them for the use and occupation
8 thereof and as intervening damages from the said defendant, appellant.

That after the expiration of the said due and legal notice to quit, the defendant, appellant, was duly served with a landlord and tenant complaint and summons, and a trial was had on the merits of the case in the Municipal Court on the 19th day of November, A. D. 1918, which trial resulted in judgment being entered therein in said Municipal Court cause, for possession of said premises in favor of the plaintiffs, appellees.

That the plaintiffs, appellees, do hereby make the entire record on this appeal, including the landlord and tenant agreement between the — Charles A. Peters and the defendant, appellant, the notice to quit, the complaint and summons, and the judgment in favor of the plaintiffs, appellees, a part of this affidavit as though the same and all of the papers and record on appeal were fully set forth herein. Wherefore, by reason of the premises, the plaintiffs, appellees, claim possession of the premises described in the complaint, and intervening damages, for use and occupation of the premises, as claimed, besides their costs.

HARLAN W. HAGAN.
FRANCES L. HAGAN.

Subscribed and sworn to before me, a notary public, in and for the City and County of Frederick and State of Maryland, this 9th day of December, A. D. 1918.

[SEAL.] A. LEROY McCARDELL,
Notary Public.

My commission expires May 3, 1920.

9 *Affidavit of Charles F. Boss.*

Filed December 20, 1918.

* * * * * * *

DISTRICT OF COLUMBIA, *ss:*

Charles F. Boss, Sr., being first duly sworn, on oath says that he is the defendant in the above entitled cause, and has a good defense to the suit for possession of the premises involved herein, which is as follows:

That this defendant was born in and never has removed from the District of Coumbia.

That in and by section 11 of the Code of Laws for the District of Columbia it is provided that non-residents shall not commence a suit in the Municipal Court of the District of Columbia without first giving security for costs. That said requirement is jurisdictional. That no security for costs was given by Harlan W. Hagan and Frances L. Hagan before or at the time of commencing this action and objection to the jurisdiction of the Court was made by this defendant at once by filing a special appearance in the cause but the same by the judge holding a branch of the Municipal Court was overruled. That said Harlan W. Hagan and Frances L. Hagan are non-residents of the District of Columbia and are residents of the county of Frederick, State of Maryland, and this defendant expects so to prove and tenders himself ready so to prove at any trial of this cause and this defendant still pleads specially to the jurisdiction of the Court to entertain this cause by reason of failure of Harlan W. Hagan and Frances L. Hagan to give security for costs. That the said Frances L. Hagan, wife of Harlan W. Hagan, is still 10 living in the county of Frederick, Maryland, and makes her home there with her children and at no time has removed to the District of Columbia and this defendant expects and tenders himself ready to prove that she has not yet been asked by Harlan W. Hagan to remove to the District of Columbia and said Harlan W. Hagan did not claim at the trial of this cause that he had requested her as yet so to remove.

That Harlan W. Hagan still maintains an established home for himself in the county of Frederick, Maryland, and visits there as frequently as his occupation in the District of Columbia will permit. That his home for many years last past was and has been in Frederick, Maryland, and still is there and he never has severed his residence in that state. That in order to vote in the State of Maryland a person eligible to vote must be a resident of the State and this defendant states that Harlan W. Hagan was eligible to vote at the election in said state in November, 1918 and still is eligible to vote in the State of Maryland at any election in said state and is a resident of said State and all this defendant expects to prove and tenders himself ready to prove at any trial of this cause and to prove that Harlan W. Hagan is still eligible to and may vote in the County of Frederick, State of Maryland notwithstanding his present living in the District of Columbia while employed in the service of the United States.

That this defendant states that under the law of Maryland Harlan W. Hagan in order to lose his voting rights in the state of Maryland while maintaining as he does now maintain a residence in said State of Maryland for himself, wife and children by becom-
11 ing employed in the City of Washington should declare his intention in the Clerk's office of the Circuit Court for Frederick County, Maryland, of removing from the state but this defendant is informed by the Clerk of the said Court that Harlan W. Hagan, the said Harlan W. Hagan wherever here mentioned, being the same person who is one of the plaintiffs to this cause, "has never declared his intention in this (the Clerk's) office of removing from Frederick County for any space of time."

That in the original complaint filed herein in the Municipal Court, defendant is described as "a monthly tenant" of the premises in question. The conceded facts disclosed by the testimony in the Municipal Court are that this affiant entered into a written agreement for the occupancy of said premises as a monthly tenant, with one Charles A. Peters, from whom the plaintiffs claim to have purchased said premises, and that thereafter, and prior to the alleged sale of said property by said Peters to plaintiffs, said written agreement for the occupancy thereof by defendant was altered by oral agreement between Peters and the defendant, by which the amount of rent paid by defendant for said premises was increased two ($2.00) dollars, per month; and defendant paid to said Peters said increased rental for several months prior to the alleged purchase of said premises by plaintiffs, as appears in the affidavit under Rule 19, filed herein by plaintiffs.

That the tenancy of said premises by defendant began on and dated from the first day of the month, and the notice to quit served upon him herein, states "this notice to expire November 1, A. D. 1918."

Wherefore affiant submits that, if his tenancy be held to be
12 a tenancy by sufferance, then plaintiffs can not recover herein under the allegations of their complaint; and if his said tenancy be held to be monthly, then the aforesaid notice to quit

fails to comply with the law, and is insufficient as a foundation for this proceeding.

CHARLES F. BOSS, Sr.

Subscribed and sworn to before me this 18th day of December, A. D. 1918.

HARRY J. GERRITY, [SEAL.]
Notary Public, D. C.

C. H. MERILLAT,
Attorney.

Motion of Plaintiff for Judgment under Rule 19.

Filed January 14, 1919.

* * * * * * *

Now come the Plaintiffs, by their attorney, Charles Linkins, and move the Court for judgment for possession of the premises herein involved and for intervening damages and costs as claimed by the Plaintiffs in their affidavit of merit, for want of a sufficient affidavit of defense, as required under Rule 19 of the Rules of this Court.

CHAS. LINKINS,
Attorney for Plaintiffs.

To Messrs. Charles H. Merillat and P. H. Marshall, Attorneys for Defendant.

Please take notice that I will call up for hearing the above motion, before the Justice holding one of the Circuit Courts, to whom the same may be assigned for hearing, on Friday, January 17th, 1919, at ten o'clock A. M., or as soon thereafter as counsel can be heard.

CHAS. LINKINS,
Attorney for Plaintiffs.

13 Supreme Court of the District of Columbia.

Saturday, February 1st, 1919.

Session resumed pursuant to adjournment, Hon. Wendell P. Stafford, Justice, presiding.

* * * * * * *

Come now the parties hereto by their respective attorneys of record; whereupon, plaintiffs' motion for judgment under Law Rule Nineteen of this Court, is argued and submitted to the Court. Upon consideration of said motion, it is ordered that the same be, and hereby is granted. Wherefore, it is considered, that the plaintiff recover of the defendant possession of the premises known as No. 620-14th St. N. E., in the City of Washington, District of Columbia, and recover of the defendant and the Fidelity and Deposit Company of Maryland, his surety their costs of suit to be taxed by the clerk and have execution thereof.

From the foregoing judgment, the defendant by his attorney, in open court notes an appeal to the Court of Appeals, whereupon, the penalty of a bond to operate as a Supersedeas is hereby fixed in the sum of Nine Hundred Dollars ($900.00) or for costs only, in the sum of One Hundred Dollars.

Memorandum.

February 21, 1919.

Supersedeas Bond approved and filed.

14 *Assignments of Error.*

Filed March 24, 1919.

* * * * * * *

The defendant assigns as error the following:

The Trial Court erred:

1. In holding that suit could be commenced in the Municipal Court, without security for costs.
2. In holding that plaintiffs, or either of them, were residents of the District of Columbia at the time of commencing suit in the Municipal Court.
3. In holding the notice to quit sufficient, and in due form of law.
4. In holding that there was no material variance between the tenancy as alleged in the complaint, and as disclosed by the affidavits.
5. In holding defendant's affidavit insufficient under Common Law Rule 16.

P. H. MARSHALL,
C. H. MERILLAT,
Attorney for Defendant.

Designation of Record on Appeal.

Filed March 20, 1919.

* * * * * * *

To the Clerk:

Please prepare transcript of record on appeal to the Court of Appeals of the District of Columbia, in the above entitled case, to include the following:

1. Complaint and Summons.
2. Motion to dismiss, filed in Municipal Court.
3. Proceedings in Municipal Court.

4. Affidavit of plaintiffs, filed Dec. 10, 1918.
15 5. Affidavit of defendant, filed Dec. 20, 1918.
6. Motion for judgment, and notice, filed Jan. 14, 1919.
7. Judgment for possession.
8. Noting of appeal in open court, and fixing of supersedeas bond.
9. Memo. of supersedeas bond approved and filed.
10. Assignments of Error.
11. This designation.

C. H. MERILLAT,
Attorney for Defendant.

To Charles Linkins, Esq., Attorney for Plaintiffs:

Please take notice that I have this day, March 19, 1919, filed with the Clerk the foregoing designation of record on appeal.

C. H. MERILLAT,
Attorney for Defendant.

16 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA,
District of Columbia, ss:

I, John R. Young, Clerk of the Supreme Court of the District of Columbia, hereby certify the foregoing pages numbered from 1 to 15, both inclusive, to be a true and correct transcript of the record, according to directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 61899 at Law, wherein Harlan W. Hagan and Frances L. Hagan are Plaintiffs and Charles F. Boss, Sr., is Defendant, as the same remains upon the files and of record in said Court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said Court, at the City of Washington, in said District, this 5th day of April, 1919.

[Seal Supreme Court of the District of Columbia.]

JOHN R. YOUNG,
Clerk.
By W. E. WILLIAMS,
Assistant Clerk.

Endorsed on cover: District of Columbia Supreme Court. No. 3264. Charles F. Boss, Sr., appellant, vs. Harlan W. Hagan et al. Court of Appeals, District of Columbia. Filed Apr. 8, 1919. Henry W. Hodges, clerk.

COURT OF APPEALS
DISTRICT OF COLUMBIA
FILED

OCT 3 - 1919

Henry W. Hodges
Clerk

In the Court of Appeals

OF THE DISTRICT OF COLUMBIA.
APRIL TERM, 1919.

No. 3264.

CHARLES F. BOSS, SR., APPELLANT,
vs.
HARLAN W. HAGAN AND FRANCES L. HAGAN,
APPELLEES.

BRIEF FOR APPELLEES.

CHAS. LINKINS,
Attorney for Appellees.

LAW REPORTER PRINTING COMPANY, 518 FIFTH STREET NORTHWEST, WASHINGTON, D. C.

In the Court of Appeals

OF THE DISTRICT OF COLUMBIA.

April Term, 1919.

No. 3264.

CHARLES F. BOSS, SR., APPELLANT,

vs.

HARLAN W. HAGAN AND FRANCES L. HAGAN,
APPELLEES.

BRIEF FOR APPELLEES.

Statement of the Case.

The summons (Rec., pp. 1 and 2) and appellees' affidavit of merit (Rec., pp. 4, 5, and 6) state the appellees' case.

The appellant entered a special appearance in the Municipal Court and moved to dismiss the suit on the ground that appellees were non-residents and had not put up costs. This motion was heard on its merits and overruled. Thereupon the case was heard on its merits and judgment awarded the appellees, from which judgment, after trial, appellant appealed to the Supreme Court of the District of Columbia, which latter court gave judgment for possession of the premises in question, and appellant appealed to this court.

ARGUMENT.

The Municipal Court was the proper forum to decide the question as to the residence of the appellees. It heard testimony on the question of residence of the appellees and afterwards overruled appellant's motion to dismiss. This question of residence of appellees involves the first and second assignments of error.

Certain it is, however, that the points of residence and costs were waived by appellant, when he proceeded to trial of the case on its merits.

> Savings and Loan Co. *vs.* Pendleton, 14 App. D. C., 386.

Had the appellant desired to save the points, after the judge in the Municipal Court had decided the appellees were residents and overruled his motion to dismiss, he should not have entered a general appearance, but should have brought the question of want of jurisdiction of the persons to the higher court on the *common law* writ of certiorari.

> Degge *vs.* Hitchcock, 35 App. D. C., 218.
> Rudolph *vs.* Craemer, 39 App. D. C., 1.
> United States *vs.* West, 34 App. D. C., 12.
> Bond *vs.* Hardware Co., 15 App. D. C., 72.

In this latter case (Bond *vs.* Hardware Co.) which involved the question of security for costs in the Justice's Court, this court raised the question as "to whether the provision of R. S. D. C., sec. 1002, providing that non-residents shall not commence suit before any justice of the peace without first giving sufficient security for costs is valid."

> 15 App. D. C., 72 (at 76).

Relative to the third and fourth assignments of error which deal with the character of the tenancy alleged and proven and the sufficiency of the notice to quit, it is urged that there are no technical pleadings in the Municipal Court (Code, sec. 16), and that section 20 of the Code does not require a complainant to technically set forth his case in the complaint, for it's requirement is that "it shall be lawful for any justice of the peace (now the Municipal Court), on complaint under oath, by the person aggrieved by said unlawful detention, to issue a summons to the party complained of to appear and show cause why judgment should not be given against him for the restitution of the possession."

By sec. 8 of the Code, the Supreme Court of the District of Columbia shall make rules regulating the practice and pleadings of Justice's Courts, now the Municipal Court. Form No. 4, Rule 24 of the Rules of Practice before the Municipal Court, adopted by the Supreme Court, D. C., in general term, July 10, 1914, provides the form to be used and describes the tenancy as "a monthly tenant." It must be assumed that the words "monthly tenant" were used in the form, after careful consideration of the law regarding tenants by sufferance and tenants by the month or from month to month (sections 1034, 1035).

It is submitted that the words used in the form prescribed, which were used in the case at bar, admit of proof of either a "verbal hiring *by the month*" or "an estate from month to month . . . or *by the month*, if expressed in writing," and especially is this so where no formal complaint is required by the statute.

The principle that formal pleadings in the Municipal Court is unnecessary has been well settled by the decisions of this court.

> Chamberlin *vs.* Edmonds, 18 App. D. C., 332 (at 341, at 345).
>
> Bliss *vs.* Duncon, 44 App. D. C., 93 (at 96).

It has therefore been held that there can be no such thing as a technical variance between the allegations and the proof in a case of this kind.

> Pulliam *vs.* Capital Traction Co., 37 App. D. C., 302.

It is claimed by appellant that he was a tenant by sufferance. If such is the appellant's contention, can he complain of the sufficiency of the notice, for by sec. 1221, Code, a notice can terminate between the due dates for two periodical installments of rent, thus giving him a longer time than the required thirty days.

This court has held that a longer notice than thirty days is good.

Spaulding *vs.* Hall, 6 D. C., 123.
Byrne *vs.* Morrison, 25 App. D. C., 72 (at 76).
Bliss *vs.* Duncon, 44 App. D. C., 93 (at 96).

It is respectfully submitted that the appellees are entitled to possession of the premises involved in this suit; that the appellee, Harlan W. Hagan, was and is a war worker within the meaning of the Saulsbury Resolution, and that the appellees bona fide purchased the property for their home, facts which upon the record have not been, nor could they have been, effectually contradicted.

Respectfully submitted.

CHAS. LINKINS,
Attorney for Appellees.